IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

Bail Appl..No. 7600 of 2007()

CRIME NO.105/07 OF NILESHWAR POLICE STATION

PETITIONERS/ACCUSED NOS.1 AND 3

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1. A.SREEDHARAN, S/O.KUNHAMBU, THALAYATH, CHALAKKADAV, MEDIKKAI.

2. T.V.GANESHAN, S/O.APPA ACHARI, CHALAKKADAV, MEDIKKAI VILLAGE.

BY ADV. SMT.T.SUDHAMANI

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7600 OF 2007

Dated this the 10th day of December, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1 and 3. They now face indictment for offences punishable under Sec.306 of the IPC. The deceased had committed suicide on 26/4/07. On the previous day, there was an alleged attack on the deceased victim by the accused persons. An allegation was raised against the deceased that he had an objectionable illicit relationship with a woman. He was admitted in the hospital. He felt ashamed and humiliated. He hence committed suicide on the very next day. Allegation under Sec.306 of the IPC has been raised.

2. The learned counsel for the petitioner submits that the allegations, even if accepted, cannot reveal an offence under Sec.306 of the IPC. The petitioners, who allegedly had

committed the culpable acts against the deceased on account of other reasons, cannot ever be assumed to have had the intention or knowledge that the deceased could have committed suicide because of such alleged attack. At any rate, investigation having now been completed and cognizance having already been taken by the learned Magistrate, the petitioners do not deserve to endure the trauma of arrest and detention, submits the learned counsel for the petitioners.

3. The learned Public Prosecutor does not oppose the application and I am satisfied, in the facts and circumstances of this case, that anticipatory bail can be granted to the petitioners herein. In coming to this conclusion, I take note of the dictum in **Bharat Chaudhary and another v. State of Bihar (**AIR 2003 SC 4662).

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 17/12/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for

interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if these directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 17/12/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 17/12/07.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge